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affecting Transport

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agenda item 5 (b) (i))

**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS
UNDER COVER OF TIR CARNETS (TIR CONVENTION, 1975)**

Revision of the Convention: Phase II of the TIR revision process

Adoption of amendment proposals under Phase II of the TIR revision process

Note by the secretariat

A. INTRODUCTION

1. This document has been prepared by the UN/ECE secretariat following the considerations of the Working Party at its ninety-fourth session (21-25 February 2000) (TRANS/WP.30/188, paras. 23-30).

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2. The document consists of two parts: The first part contains all amendment proposals considered as well as comments prepared and revised under Phase II of the TIR revision process by the Working Party, the European Commission, the UN/ECE secretariat and the International Road Transport Union (IRU). In order to facilitate consideration of the large number of modifications proposed, they are presented together with the context of the affected provisions of the convention as already done in document TRANS/WP.30/AC.2/2000/3 - TRANS/WP.30/2000/2 which had been considered by the Working Party at its ninety-fourth session .

3. Different fonts have been used to show the nature of the text affected:

Normal:	Unchanged provisions of the Convention
Bold:	Amendments proposed by the Working Party
<i>Bold and italics:</i>	Amendments proposed by the UN/ECE secretariat
Strikeout:	Deletions proposed by the Working Party and/or UN/ECE secretariat
<i>Italics:</i>	Explanations to the modifications prepared by the UN/ECE secretariat.

4. The second part of the document contains, in a consolidated manner, only those amendment proposals that require transmission to the Secretary-General of the United Nations in his capacity as depository of the Convention as well as approval by all Contracting Parties to the Convention in accordance with articles 59 and 60 of the Convention. Thus, comments to the provisions of the Convention are, for example, not retained herein. The proposed amendments in the second part of the document are shown in the same way and order as they would be reflected in the relevant Depository Notification.

B. BACKGROUND

5. While the amendments to the Convention which were accepted under Phase I of the TIR revision process and came into force on 17 February 1999 focused on strengthening control over the TIR regime both on national and international levels, the amendment proposals prepared under Phase II have the objective to clearly define the various elements of the TIR procedure and to determine unequivocally the rights and obligations of various actors involved therein (Customs authorities, TIR Carnet holders, national guaranteeing associations, international organization(s), etc.). These amendment proposals should also provide for harmonization in the interpretation of some of the key provisions of the TIR procedure with a view to reducing the number of disputes and litigations and, if necessary, to establish unambiguous procedural and legal bases for the transparent and efficient settlement of Customs claims.

6. In particular, it is felt that a clear distinction between (a) the termination of a TIR

operation as an obligation of the TIR Carnet holder and (b) the discharge of a TIR operation as the recognition by Customs authorities that a TIR operation has been terminated correctly would be extremely useful. Another set of amendment proposals relates to the definition of the holder of the TIR Carnet and the status and the functions of the international organization(s) as referred to in article 6, paragraph 2 and in annex 8, (new) paragraph 10 of the Convention.

7. It should be noted that the proposed amendments do not modify existing Customs procedures in the Contracting Parties to the Convention, but would allow for a better understanding of the rights and obligations of Customs authorities, TIR Carnet holders, national associations and international organization(s) during TIR transit operations.

8. Relevant background material relating to the amendment proposals under Phase II of the TIR revision process is contained in the following documents: TRANS/WP.30/188; TRANS/WP.30/AC.2/2000/7; TRANS/WP.30/2000/9; TRANS/WP.30/AC.2/2000/3 ; TRANS/WP.30/2000/2; TRANS/WP.30/186; TRANS/WP.30/1999/14; TRANS/WP.30/1999/10; TRANS/WP.30/1999/9; TRANS/WP.30/1999/8; TRANS/WP.30/1999/7 and Add.1; TRANS/WP.30/1999/1 and Add.1; TRANS/WP.30/1997/1; TRANS/WP.30/1998/17; TRANS/WP.30/1998/15; TRANS/WP.30/1998/11; TRANS/WP.30/1998/5 and Corr. 1.

9. These documents may be obtained directly from the UN/ECE secretariat (Transport Division, United Nations Economic Commission for Europe (UN/ECE), Palais des Nations, CH-1211 Geneva 10, Fax. No.: + 41-22-917-0039; E-mail: martin.magold@unece.org) or can be accessed and downloaded from the relevant UN/ECE Web site (www.unece.org/trans/new_tir/welctir.htm, then click "WP.30").

**C. AMENDMENT PROPOSALS PREPARED UNDER PHASE II OF THE
TIR REVISION PROCESS**

TIR Convention, 1975

Article 1

For the purposes of this Convention:

(a) The term "TIR **transport**" shall mean the transport of goods from a Customs office of departure to a Customs office of destination under the procedure, called the TIR procedure, laid down in this Convention;

(a **bis**) the term "TIR **operation**" shall mean the part of a TIR transport that is carried out in a Contracting Party from a Customs office of departure or entry (**en route**) to a Customs office of destination or exit (**en route**);

[(a **ter**) the term "start of a TIR operation" shall mean that the road vehicle, the combination of vehicles or the container have been presented for purposes of control to the Customs office of departure or of entry (**en route**) together with the load and the TIR Carnet relating thereto and that the TIR Carnet has been accepted by the Customs office;]

(a **quater**) the term "termination of a TIR operation" shall mean that the road vehicle, the combination of vehicles or the container have been presented for purposes of control to the Customs office of destination or of exit (**en route**) together with the load and the TIR Carnet relating thereto;

(a **quinto**) the term "discharge of a TIR operation" shall mean the recognition by Customs authorities that the TIR operation has been terminated correctly in a Contracting Party. This is established by the Customs authorities on the basis of a comparison of the data or information available at the Customs office of destination or exit (**en route**) and that available at the Customs office of departure or entry (**en route**);

(b) the term "import or export duties and taxes" shall mean Customs duties and all other duties, taxes, fees and other charges which are collected on, or in connection with, the import or export of goods, but not including fees and charges limited in amount to the approximate cost of services rendered;

(c) the term "road vehicle" shall mean not only any power-driven road vehicle but

also any trailer or semi-trailer designed to be coupled thereto;

(d) the term "combination of vehicles" shall mean coupled vehicles which travel on the road as a unit;

(e) the term "container" shall mean an article of transport equipment (lift van, movable tank or other similar structure):

- (i) fully or partially enclosed to constitute a compartment intended for containing goods,
- (ii) of a permanent character and accordingly strong enough to be suitable for repeated use,
- (iii) specially designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading,
- (iv) designed for ready handling, particularly when being transferred from one mode of transport to another,
- (v) designed to be easy to fill and to empty, and
- (vi) having an internal volume of one cubic metre or more, "demountable bodies" are to be treated as containers;

(f) the term "Customs office of departure" shall mean any Customs office of a Contracting Party where the **TIR international** transport of a load or part load of goods ~~under the TIR procedure~~ begins;

(g) the term "Customs office of destination" shall mean any Customs office of a Contracting Party where the **TIR international** transport of a load or part load of goods ~~under the TIR procedure~~ ends;

(h) the term "Customs office en route" shall mean any Customs office of a Contracting Party through which a road vehicle, combination of vehicles or container is **entering or leaving a Contracting Party** in the course of a **TIR transport**;

(j) the term "person" shall mean both natural and legal persons;

(j bis) the term "holder" of a TIR Carnet shall mean the person to whom a TIR Carnet has been issued in accordance with the relevant provisions of the Convention and on whose behalf a Customs declaration has been made in the form of a TIR Carnet indicating a wish [*an intention*] to place goods under the TIR procedure at the Customs office of departure. He shall be responsible for presentation of the road vehicle, the combination of vehicles or the container together with the load and the TIR Carnet relating thereto at the Customs office en route and the Customs office of destination with due observance of the relevant provisions of the Convention;

(k) the term "heavy or bulky goods" shall mean any heavy or bulky object which because of its weight, size or nature is not normally carried in a closed vehicle or closed container;

(l) the term "guaranteeing association" shall mean an association approved by the Customs authorities of a Contracting Party to act as surety for persons using the TIR procedure.

....

Article 2

This Convention shall apply to the transport of goods without intermediate reloading, in road vehicles, combinations of vehicles or in containers, across one or more frontiers between a Customs office of departure of one Contracting Party and a Customs office of destination of another or of the same Contracting Party, provided that some portion of the journey between the beginning and the end of the TIR **transport** is made by road.

Explanatory Notes to Article 2

0.2-2 The provisions of this Article allow goods to be carried under cover of a TIR Carnet when only part of the journey is made by road. They do not specify what part of the journey has to be made by road and it is sufficient that this should occur at some point between the beginning and the end of the TIR **transport**. However, it may happen that, for unforeseen reasons of a commercial or accidental nature, no part of the journey can be made by road, despite the intentions of the sender at the start of the journey. In these exceptional cases the Contracting Parties shall nevertheless accept the TIR Carnet and the liability of the guaranteeing associations shall remain in force.

Article 6

1. Each Contracting Party may authorize associations to issue TIR Carnets, either directly or through corresponding associations, and to act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I, are complied with. The authorization shall be revoked if the minimum conditions and requirements contained in Annex 9, Part I are no longer fulfilled.

2. An association shall not be approved in any country unless its guarantee also covers the liabilities incurred in that country in connection with operations under cover of TIR Carnets issued by foreign associations affiliated to the same international organization as that to which it is itself affiliated.

2 bis. An international organization, as referred to in paragraph 2, shall be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system provided that it accepts this responsibility.

Explanatory Notes to Article 6

0.6.2 Under the provisions of this paragraph, the Customs authorities of a country may approve more than one association, each of which may incur liability arising from the operations undertaken under cover of the Carnets issued by it or by its corresponding associations.

0.6.2 bis The relationship between an international organization and its member associations shall be defined in written agreements on the functioning of the international guarantee system.

....

Article 8

1. The guaranteeing association shall undertake to pay the import or export duties and taxes, together with any default interest, due under the Customs laws and regulations of the country in which an irregularity has been noted in connection with a TIR operation. It shall be liable, jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums.

....

4. The liability of the guaranteeing association to the authorities of the country where the Customs office of departure is situated shall commence at the time when the TIR Carnet is accepted by the Customs office. In the succeeding countries through which goods are transported under the TIR procedure, this liability shall commence at the time when the goods are imported or, where the TIR *transport* has been suspended under Article 26, paragraphs 1 and 2, at the time when the TIR Carnet is accepted by the Customs office where the TIR *transport* is resumed.

....

7. When payment of sums mentioned in paragraphs 1 and 2 of this Article becomes due, the competent authorities shall so far as possible require payment from the person or persons directly liable before making a claim against the guaranteeing association.

....

Explanatory Note to Article 8

0.8.7 Measures to be taken by the competent authorities in order to require payment from the person or persons directly liable shall include at least notification of the non-discharge of a TIR operation and/or transmission of the claim for payment to the TIR Carnet holder.

Comments to Article 8

The existing comment to Article 8 (1999 TIR Handbook, page 37) will be placed following the revised Article 11, paragraph 1 (see below).

....

Article 10

~~1. — The TIR Carnet may be discharged unconditionally or conditionally; where discharge is conditional this shall be on account of facts connected with the TIR operation itself. These facts shall be clearly indicated in the TIR Carnet.~~

1. Discharge of a TIR operation has to take place without delay (French: ... sans retard, Russian: ... áâç çàääðæâê).

Two following wordings have been proposed for new Article 10, para.2:

[2. When the Customs authorities of a country **have certified termination of a TIR operation without reservation** they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraphs 1 and 2, unless **the certificate of termination** was obtained in an improper or fraudulent manner.] *or*

[2. When the Customs authorities of a country **have discharged a TIR operation** they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraphs 1 and 2, unless the **certificate of termination** was obtained in an improper or fraudulent manner **or no termination has taken place.**]

Explanatory Note to Article 10

0.10 The **certificate of termination** shall be regarded as having been obtained in an improper or fraudulent manner when the TIR operation has been carried out by means of load compartments or containers adapted for fraudulent purposes, or when such malpractice as the use of false or inaccurate documents, the substitution of goods, tampering with Customs seals, etc., have been discovered, or when the certificate has been obtained by other illicit means.

~~Comments to Article 10~~

The existing comments to Article 10 (1999 TIR Handbook, page 40) will be placed following the revised Article 28 (see below).

Article 11

1. **Where a TIR operation has not been discharged, the competent authorities** shall not have the right to claim payment of the sums mentioned in Article 8, paragraphs 1 and 2, from the guaranteeing association unless, within a period of one year from the date of acceptance of the TIR Carnet by those authorities, they have notified the association in writing of the non discharge ~~or conditional discharge~~. The same provision shall apply where the **certificate of termination** was obtained in an improper or fraudulent manner, save that the period shall be two years.

2. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2, shall be made to the guaranteeing association at the earliest three months after the date on which the association was informed that the **TIR operation** had not been discharged ~~or had been~~

~~discharged conditionally~~ or that the certificate of termination had been obtained in an improper or fraudulent manner and at the latest not more than two years after that date. However, in cases which, during the above-mentioned period of two years, become the subject of legal proceedings, any claim for payment shall be made within one year of the date on which the decision of the court becomes enforceable.

3. The guaranteeing association shall have a period of three months, from the date when a claim for payment is made upon it, in which to pay the amounts claimed. The sums paid shall be reimbursed to the association if, within the two years following the date on which the claim for payment was made, it has been established to the satisfaction of the Customs authorities that no irregularity was committed in connection with the transport operation in question.

Explanatory Notes to Article 11

0.11-1 In addition to the notification to the guaranteeing association, Customs authorities should also notify the TIR Carnet holder as soon as possible when a TIR operation has not been discharged. This could be done at the same time as the notification to the guaranteeing association.

0.11-2 In deciding whether or not to release the goods or vehicle, Customs authorities should not, when they have other means in law of protecting the interests for which they are responsible, be influenced by the fact that the guaranteeing association is liable for the payment of duties, taxes and default interest payable by the holder of the Carnet.

0.11-3 If a guaranteeing association is asked, in accordance with the procedure set out in Article 11, to pay the sums referred to in Article 8, paragraphs 1 and 2, and fails to do so within the time limit of three months prescribed by the Convention, the competent authorities may rely on national regulations in requiring payment of the sums in question because what is involved in such cases is a failure to carry out a contract of guarantee entered into by the guaranteeing association under national law.

....

The existing comment to Article 8 will become a comment to Article 11, paragraph 1:

Comment to Article 11, paragraph 1

Notification to guaranteeing associations

Customs administrations should notify their respective national guaranteeing association(s) as soon as possible of cases covered by Article 11, paragraph 1, that is when a TIR operation has not been discharged

....

Article 16

When a road vehicle or combination of vehicles is carrying out a TIR **transport**, one rectangular plate bearing the inscription "TIR" and conforming to the specifications given in Annex 5 to this Convention, shall be affixed to the front and another to the rear of the road vehicle or combination of vehicles. These plates shall be so placed as to be clearly visible. They shall be removable or be fitted or designed in such a way that these plates can be reversed, covered, folded or indicate in any other manner that a TIR transport is not carried out.

....

Article 17

1. A single TIR Carnet shall be made out in respect of each road vehicle or container. However, a single TIR Carnet may be made out in respect of a combination of vehicles or for several containers loaded on to a single road vehicle or on to a combination of vehicles. In that case the TIR manifest of the goods covered by the TIR Carnet shall list separately the contents of each vehicle in the combination of vehicles or of each container.

2. The TIR Carnet shall be valid for one journey only. It shall contain at least the number of detachable vouchers ~~for Customs acceptance and for the discharge~~ which are necessary for the TIR **transport** in question.

....

Article 18

A TIR **transport** may involve several Customs offices of departure and destination, but the total number of Customs offices of departure and destination shall not exceed four. The TIR Carnet may only be presented to Customs offices of destination if all Customs offices of

departure have accepted the TIR Carnet.

Explanatory Notes

0.18-1 It is essential for the smooth operation of the TIR procedure that the Customs authorities of one country should refuse to designate a Customs office of exit as a Customs office of destination for a transport operation which is going on to a neighbouring country when that country is also a Contracting Party to this Convention, unless there are some special circumstances to justify the request.

0.18-2 1. Goods should be so loaded that the consignment to be unloaded at the first unloading point can be taken out of the vehicle or the container without it being necessary to unload the other consignment or consignments of goods due to be unloaded at the other unloading points.

2. Where a transport operation involves unloading at more than one office it is necessary that, after a partial unloading, a record of it should be made in box 12 on all the remaining manifests of the TIR Carnet, and at the same time another record should be made on the remaining vouchers and the corresponding counterfoils to the effect that new seals have been affixed.

Comment to Article 18

Several Customs offices of departure **or destination**

A TIR **transport** may involve more than one Customs office of departure **or destination** in one or in several countries, provided the total number of Customs offices of departure and destination does not exceed four. **In accordance with No. 6 of the Rules regarding the use of the TIR Carnet (Annex 1 to the Convention, Model of the TIR Carnet: Version 1 and Version 2, page 3 of the cover), for each additional Customs office of departure or destination two extra vouchers are required.** The filling in **of the vouchers of the** TIR Carnet whenever several Customs offices of departure/**destination** are involved should be done in such a way that goods loaded/**unloaded** subsequently at different offices should be added in/**crossed out from** the goods manifest (**boxes 9, 10 and 11**) and the offices of departure/**destination** should endorse the goods loaded/**unloaded** subsequently under item 16.

Following the request of the Working Party at its ninety-fourth session (TRANS/WP.30/188, para. 26), the secretariat propose the following new comment to Explanatory Note 0.18-2:

Comment to Explanatory Note 0.18-2

Unloading [of the goods]

The term "unloading" referred to , in particular, in Explanatory Note 0.18-2 does not necessarily imply physical removal of the goods from the vehicle or container, for example, in cases where a transport operation continues after a TIR transport has ended. However, if a TIR transport has ended for a part-load of the goods and continues for the rest of the load, the former should be physically removed from the sealed load compartment or container or, in case of heavy or bulky goods, should be separated from the goods for which the TIR transport continues.

....

Article 21

At each Customs office en route and at Customs offices of destination, the road vehicle, the combination of vehicles or the container shall be produced for purposes of control to the Customs authorities together with the load and the TIR Carnet relating thereto.

Explanatory Notes to Article 21

- 0.21-1 The provisions of this Article do not restrict the right of Customs authorities to examine all parts of a vehicle other than the sealed load compartment.
- 0.21-2 The Customs office of entry may turn back the carrier to the Customs office of exit of the adjacent country if it finds that no clearance has been given by that office or that clearance has not been given in due form. In such cases the Customs office of entry inserts a note in the TIR Carnet for the Customs office of exit concerned.
- 0.21-3 If in the course of an examination, Customs authorities draw samples of goods, a note recording full particulars of the goods taken must be made by those authorities on the goods manifest of the TIR Carnet.

Comments to Article 21

Termination of a TIR operation at the Customs office of exit (en route) and at the Customs office of destination

Termination en route

The road vehicle, the combination of vehicles or the container have been presented for purposes of control to the Customs office of exit (en route) together with the load and the TIR Carnet relating thereto.

Partial termination

The road vehicle, the combination of vehicles or the container have been presented for purposes of control to the Customs office of destination together with the load and the TIR Carnet relating thereto followed by partial unloading.

Final termination

The road vehicle, the combination of vehicles or the container have been presented for purposes of control to the last Customs office of destination together with the load or the remaining load in case of previous partial termination(s) and the TIR Carnet relating thereto.

....

Article 26

1. When transport under cover of a TIR Carnet takes place in part in the territory of a State which is not a Contracting Party to this Convention, the TIR *transport* shall be suspended during that part of the journey. In that case, the Customs authorities of the Contracting Party on whose territory the journey continues shall accept the TIR Carnet for the resumption of the TIR *transport*, provided that the Customs seals and/or identifying marks have remained intact.
2. The same shall apply where for a part of the journey the TIR Carnet is not used by the holder of the Carnet in the territory of a Contracting Party because of the existence of simpler Customs transit procedures or when the use of a Customs transit regime is not necessary.

3. In such cases the Customs offices where the TIR *transport* is suspended or resumed shall be deemed to be Customs offices of exit en route and Customs offices of entry en route respectively.

....

Article 28

~~On arrival of the load at the Customs office of destination, and provided that the goods are then placed under another system of Customs control or are cleared for home use, discharge of the TIR Carnet shall take place without delay.~~

1. Termination of a TIR operation shall be certified by Customs authorities without delay. Termination of a TIR operation may be certified without or with reservation: where termination is certified with reservation this shall be on account of facts connected with the TIR operation itself. These facts shall be clearly indicated in the TIR Carnet.

2. In cases where the goods are placed under another Customs regime, all eventual irregularities that may be established [*take place*] under the latter regime cannot be attributed to the TIR Carnet holder as such [or any other person acting on his behalf].

Explanatory Note to Article 28

0.28 ~~1. Article 28 provides that discharge of the TIR Carnet at the office of destination shall take place without delay, on condition that the goods are placed under another Customs procedure or cleared for home use.~~

The use of the TIR Carnet must be restricted to the function which it was intended to cover, namely the transit operation. The TIR Carnet must not, for example be used to cover the storage of goods under Customs control at destination. ~~Where no irregularity has taken place, the office of destination must discharge the TIR Carnet as soon as the goods covered by the Carnet have come under another Customs procedure or have been cleared for home use.~~

~~In practice discharge must be given as soon as the goods have been directly re-exported (as, for example, when they are shipped on arrival at a port), or as soon as a declaration for Customs purposes has been made at the place of destination, or as soon as the goods have been received into a place approved for storage while awaiting a declaration for Customs purposes (for example, a transit shed), in accordance with the regulations in force in the country of destination.~~

Comments to Article 28

Applicable procedures after termination of a TIR operation

Article 28 provides that termination of a TIR operation shall be certified by Customs authorities without delay. Termination will be subject to the goods having been [to be] placed under another Customs procedure or another system of Customs control. This may include clearance for home use, transfer across the border to a third country or a free zone and storage in a place approved by the Customs authorities while awaiting the declaration for another Customs procedure.

Return of TIR Carnets

It must be stressed that the immediate return of the TIR Carnet, whether ~~discharged conditionally or unconditionally~~ **certified as terminated with or without reservation**, is an essential duty of the Customs office of destination. This not only facilitates checking by **the issuing association** and the IRU, but also enables **these organizations**, on return of the Carnet, to issue a new Carnet to the carrier; **since** the number of Carnets in use (**at holder's possession**) at any one time **may be** limited.

Possibility of using two TIR Carnets for a single transport operation

Occasionally, the number of **vouchers** in the TIR Carnet are not sufficient to carry out a total **TIR transport operation in Europe**. In these cases the first TIR operation has to be **terminated** in accordance with Articles 27 and 28 of the Convention and a new Carnet has **to be accepted by the same Customs office and** used for the remainder of the **TIR transport**. ~~and to be presented to the Customs office of destination.~~ **Proper inscription should [shall] be made in both TIR Carnets to reflect this fact.**

The following three comments will be moved from Article 10 (1999 TIR Handbook, pages 40) to the revised Article 28.

Termination of a TIR operation

1. In cases where the TIR **operation** has been **certified as terminated without reservation**, the Customs administration which declares **that the certificate of**

termination has been obtained in improper or fraudulent manner should specify in its **notification of non-discharge and/or** request for payment its reasons for declaring this **termination** improper or fraudulent.

2. The Customs authorities should not **certify the termination of TIR operations** subject to systematic unspecified reservations, without giving reasons, solely for the purposes of avoiding the requirements of Article 10, paragraph ~~2~~ 1 and Article 11, paragraph 1.

Indication of reservations

Customs administrations should make any **reservation about the termination of a TIR operation** very clear and should *also* indicate the existence of a reservation **by filling-in box 27 on voucher No.2 of the TIR Carnet and** by placing an "R" by item No. 5 on counterfoil No. 2 *of the Carnet as well as* **filling-in of the certified report, if appropriate.**

Alternative forms of evidence ~~as proof~~ for **the termination** of a TIR **operation**

With a view to establishing alternative evidence for the proper termination of a TIR operation, Customs authorities are recommended to **use** exceptionally, **for example, the following information provided it has been furnished to their satisfaction:**

- any official certificate or confirmation of the termination *of a TIR operation* ~~for covered by the same TIR operation~~ transport made out by another Contracting Party following ~~or terminating~~ the respective ~~transit~~ TIR operation or confirmation of the transfer of the goods in question to another Customs procedure ~~or to~~, *e.g.* clearance for home use;
- the duly stamped counterfoils **No. 1 or No. 2** in the TIR Carnet **by such a Contracting Party** or a copy thereof to be provided by the **international organization referred to in Article 6 of the Convention.**

....

Article 40

The Customs administrations of the countries of departure and of destination shall not consider the holder of the TIR Carnet responsible for the discrepancies which may be discovered in those countries, when the discrepancies in fact relate to the Customs procedures which preceded or followed a TIR **transport** and in which the holder was not involved.

....

Article 42

On receipt from a Contracting Party for a request giving the relevant reasons, the competent authorities of the Contracting Parties concerned in a TIR **transport** shall furnish that Contracting Party with all the available information needed for implementation of the provisions of Articles 39, 40 and 41 above.

Annex 1

MODEL OF TIR CARNET

.....

Comments to the model of the TIR Carnet

Model of the TIR Carnet and TIR Carnet forms actually printed and distributed

In order to impede falsification of TIR Carnet forms and to facilitate their distribution and registration, TIR Carnet forms actually printed and distributed may contain additional details and features which do not appear in the model of the TIR Carnet reproduced in Annex 1, such as identification and page numbers, bar-codes as well as other special protective features. Such additional details and features should be approved by the TIR Administrative Committee or the TIR Executive Board.

Method of affixing additional documents

If, in line with ~~rule~~ **No. 10 (c) or No. ~~rule~~ 11 of the Rules** regarding the use of the TIR Carnet, additional documents need to be attached to the vouchers or the cover of the TIR Carnet, the Customs authorities should attach them to the TIR Carnet by means of staples or other devices and by stamping them in such a way that their removal would leave obvious traces on the Carnet.

Goods description in the Goods Manifest (**boxes 9-11 of the vouchers**)

Customs administrations and TIR Carnet holders should strictly observe the Rules regarding the use of the TIR Carnet. If necessary the goods should be described in attached documents which are to be stamped by Customs and reference to which is to be made in box 8 of the vouchers. At least the usual commercial description of goods is necessary allowing for their clear identification without ambiguity for Customs purposes.

Declaration of the goods value

The fact that there is no declaration of the value of goods on the TIR Carnet gives no ground for detention of the goods by Customs administrations.

Termination of a TIR operation

In boxes **24 to 28 of voucher No. 2, in addition to the required inscriptions, only one Customs stamp and one signature are necessary and sufficient to certify the termination of a TIR operation.** Other authorities than Customs are not entitled to stamp and sign **the vouchers and the front cover. The filling-in by the competent authorities of the counterfoil to voucher No. 2, including one Customs stamp, the date and the signature, indicates to the TIR Carnet holder and the guaranteeing association that the termination of the TIR operation has been certified, with or without reservation.**

Customs stamps on the counterfoil

Sometimes, Customs authorities in transit countries do not stamp the counterfoils in TIR Carnets as stipulated in the Convention. Such occurrences, though not permissible, do not jeopardize the validity of the TIR transport as long as **the TIR Carnet is accepted by the next Customs office of entry (en route)** [~~the offices of destination discharge the TIR Carnet unconditionally~~].

....

Alternative forms of evidence ~~as proof~~ for **the termination** of a TIR operation

With a view to establishing alternative evidence for the proper termination of a TIR operation, Customs authorities are recommended to use exceptionally, for example, the following information provided it has been furnished to their

satisfaction:

- **any official certificate or confirmation of the termination of a TIR operation ~~for~~ covered by the same TIR transport made out by another Contracting Party following ~~or terminating~~ the respective transit TIR operation or confirmation of the transfer of the goods in question to another Customs procedure, e.g. ~~or to~~ clearance for home use;**
- **the duly stamped counterfoils No. 1 or No. 2 in the TIR Carnet by such a Contracting Party or a copy thereof to be provided by the international organization referred to in Article 6 of the Convention.**

Indication of reservations

Customs administrations should make any **reservation about the termination of a TIR operation** very clear and should *also* indicate the existence of a reservation **by filling-in box 27 on voucher No. 2 of the TIR Carnet and** by placing an "R" by item No. 5 on counterfoil No. 2 of the Carnet *as well as filling-in of the certified report, if appropriate.*

Model of the TIR Carnet: Version 1

Replace in box 6 on page 1 of the cover the words:

"Country of departure" by: "**Country/countries of departure**".

Replace in box 5 on all vouchers the words:

"Country of departure" by: "**Country/countries of departure**".

Replace in box 24 on voucher No.2 the words:

"Certificate of discharge" by: "**Certificate of termination of a TIR operation**".

Modify in box 26 on voucher No.2 the words:

"Number of packages discharged" by: "**Number of packages for which the termination of a TIR operation is ~~terminated~~ certified**".

Modify under item 3 on the counterfoil No. 2 the words:

"Discharged packages or articles (as specified in the manifest)" by: "**Number of packages for which the termination of a TIR operation is ~~terminated~~ certified** (as specified in the manifest)".

Replace in No. 3 of the Rules regarding the use of the TIR Carnet the wording "TIR operation" by "**TIR transport**".

Model of the TIR Carnet: Version 2

Replace in box 6 on page 1 of the cover the words:
"Country of departure" by: "**Country/countries of departure**".

Replace in box 5 on all vouchers the words:
"Country of departure" by: "**Country/countries of departure**".

Replace in box 24 on voucher No.2 the words:
"Certificate of discharge" by: "**Certificate of termination of a TIR operation**".

Modify in box 26 on voucher No.2 the words:
"Number of packages discharged" by: "**Number of packages for which the termination of a TIR operation is ~~terminated~~ certified**".

Modify under item 3 on the counterfoil No. 2 the words:
"Discharged packages or articles (as specified in the manifest)" by: "**Number of packages for which the termination of a TIR operation is certified ~~terminated~~ (as specified in the manifest)**".

Replace in No. 3 of the Rules regarding the use of the TIR Carnet the wording "TIR operation" by "**TIR transport**".

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D. MODIFICATIONS TO THE CONVENTION AS PART OF PHASE II OF THE REVISION PROCESS

TIR Convention, 1975

Article 1, paragraph (a)

Replace the words “TIR operation” by the words “TIR transport”.

Delete inverted commas around the words “TIR procedure”.

Article 1, paragraphs (b) to (e)

Existing paragraphs (b) to (e) are to be re-numbered and become (f) to (j).

Article 1, new paragraphs (b) to (e)

Add the following new paragraphs:

“(b) the term “TIR operation” shall mean a national part of a TIR transport from a Customs office of departure or entry (en route) to a Customs office of destination or exit (en route) in a given country;

[(c) the term “start of a TIR operation” shall mean that the road vehicle, the combination of vehicles or the container have been presented for purposes of control to the Customs office of departure or of entry (en route) together with the load and the TIR Carnet relating thereto and that the TIR Carnet has been accepted by the Customs office;]

(d) the term “termination of a TIR operation” shall mean that the road vehicle, the combination of vehicles or the container have been presented for purposes of control to the Customs office of destination or of exit (en route) together with the load and the TIR Carnet relating thereto;

(e) the term “discharge of a TIR operation” shall mean the recognition by Customs authorities that the TIR operation has been terminated correctly in a Contracting Party. This is established by the Customs authorities on the basis of a comparison of the data or information available at the Customs office of destination or exit (en route) and that available at the Customs office of departure or entry (en route);”

Article 1, paragraphs (f) to (j)

Existing paragraphs (f) to (j) are to be re-numbered and become (k) to (n).

Article 1, paragraphs (f) to (h)

Modify new paragraphs (k) to (m) to read as follows:

“(k) the term "Customs office of departure" shall mean any Customs office of a Contracting Party where the TIR transport of a load or part load of goods begins;

(l) the term "Customs office of destination" shall mean any Customs office of a Contracting Party where the TIR transport of a load or part load of goods ends;

(m) the term "Customs office en route" shall mean any Customs office of a Contracting Party through which a road vehicle, combination of vehicles or container is entering or leaving a Contracting Party in the course of a TIR transport;

Article 1, paragraphs (k) and (l)

Existing paragraphs (k) and (l) are to be re-numbered and become (p) and (q).

Article 1, new paragraph (o)

Add the following new paragraph:

“(o) the term “holder” of a TIR Carnet shall mean the person to whom a TIR Carnet has been issued in accordance with the relevant provisions of the Convention and on whose behalf a Customs declaration has been made in the form of a TIR Carnet indicating a wish [an intention] to place goods under the TIR procedure at the Customs office of departure. He shall be responsible for presentation of the road vehicle, the combination of vehicles or the container together with the load and the TIR Carnet relating thereto at the Customs office en route and the Customs office of destination with due observance of the relevant provisions of the Convention;”

Article 2

Replace the words “TIR operation” by the words “TIR transport”.

Article 6, new paragraph 2 bis

Add the following new paragraph:

“2 bis. An international organization, as referred to in paragraph 2, shall be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system provided that it accepts this responsibility.”

Article 8, paragraph 4

Replace twice in the second sentence the words “TIR operation” by the words “TIR transport”.

Article 10, paragraph 1

To be deleted.

Article 10, new paragraph 1

Add the following new paragraph:

“1. Discharge of a TIR operation has to take place without delay (French: ... sans retard, Russian: ... áâç çàääðæâê).”

Article 10, paragraph 2

Modify paragraph 2 to read as follows:

[“2. When the Customs authorities of a country have certified termination of a TIR operation without reservation [have discharged a TIR operation] they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraphs 1 and 2, unless the certificate of termination was obtained in an improper or fraudulent manner [or no termination has taken place].”]

Article 11, paragraph 1

Modify the beginning of the first sentence to read as follows:

“1. Where a TIR operation has not been discharged, the competent authorities ...”.

Delete at the end of the first sentence the wording: “or conditional discharge”.

Replace in the second sentence the words: “certificate of discharge” by: “certificate of termination”.

Article 11, paragraph 2 of the Convention

Modify the first sentence to read as follows:

“2. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made to the guaranteeing association at the earliest three months after the date on which the association was informed that the TIR operation had not been discharged or that the certificate of termination had been obtained in an improper or fraudulent manner and at the latest not more than two years after that date.”

Article 16

In the first sentence replace the words “TIR operation” by the words “TIR transport”.

Article 17, paragraph 2

Modify paragraph 2 to read as follows:

“2. The TIR Carnet shall be valid for one journey only. It shall contain at least the number of detachable vouchers which are necessary for the TIR transport in question.”

Article 18

In the first sentence replace the words “TIR operation” by the words “TIR transport”.

Article 26, paragraph 1

In the first and second sentences replace the words “TIR operation” by the words “TIR transport”.

Article 26, paragraph 3

Replace the words “TIR operation” by the words “TIR transport”.

Article 28

Modify article 28 to read as follows:

“1. Termination of a TIR operation shall be certified by Customs authorities without delay. Termination of a TIR operation may be certified without or with reservation: where termination is certified with reservation this shall be on account of facts connected with the TIR operation itself. These facts shall be clearly indicated in the TIR Carnet.

2. In cases where the goods are placed under another Customs regime, all eventual irregularities that may be established [take place] under the latter regime cannot be attributed to the TIR Carnet holder as such [or any person acting on his behalf.]”.

Article 40

Replace the words “TIR operation” by the words “TIR transport”.

Article 42

Replace the words “TIR operation” by the words “TIR transport”.

Annex 1 to the Convention

Model of TIR Carnet, Version I and Version II

Replace in box 6 on page 1 of the cover the words:

"Country of departure" by: "Country/countries of departure".

Replace in box 5 on all vouchers the words:

"Country of departure" by: "Country/countries of departure".

Replace in box 24 on voucher No.2 the words:

“Certificate of discharge” by: “Certificate of termination of a TIR operation”.

Modify in box 26 on voucher No.2 the words:

“Number of packages discharged” by: “Number of packages for which the termination of a TIR operation is certified”.

Modify under item 3 on the counterfoil No. 2 the words:

“Discharged packages or articles (as specified in the manifest)” by: “Number of packages for which the termination of a TIR operation is certified (as specified in the manifest)”.

Replace in No. 3 of the Rules Regarding the use of the TIR Carnet the wording “TIR operation” by “TIR transport”.

Annex 6, Explanatory Note 0.2-2

In the second sentence replace the words “TIR operation” by the words “TIR transport”.

Annex 6, new Explanatory Note 0.6.2 bis

Add a new Explanatory Note to Article 6, new paragraph 2 bis to read as follows :

“0.6.2 bis. The relationship between an international organization and its member associations shall be defined in written agreements on the functioning of the international guarantee system.”

Annex 6, new Explanatory Note 0.8.7

Add a new Explanatory Note to Article 8, paragraph 7 to read as follows:

“0.8.7 Measures to be taken by the competent authorities in order to require payment from the person or persons directly liable shall include at least notification of the non-discharge of a TIR operation and/or transmission of the claim for payment to the TIR Carnet holder.”

Annex 6, Explanatory Note 0.10

Replace the wording: “certificate of discharge of the TIR Carnet” by: “certificate of termination”.

Annex 6, Explanatory Notes 0.11-1 and 0.11-2

Existing Explanatory Notes 0.11-1 and 0.11-2 are to be re-numbered and become 0.11-2 and 0.11-3, respectively.

Annex 6, new Explanatory Note 0.11-1

Add a new explanatory note to Article 11, paragraph 1 to read as follows:

“0.11-1 In addition to the notification to the guaranteeing association, Customs authorities should also notify the TIR Carnet holder as soon as possible when a TIR operation has not been discharged. This could be done at the same time as the notification to the guaranteeing association.”

Annex 6, Explanatory Note 0.28

Delete paragraph 1 of Explanatory Note 0.28.

Delete the third sentence in paragraph 2 of Explanatory Note 0.28.

Delete the third (unnumbered) paragraph of Explanatory Note 0.28.
